

BEFORE THE
PHYSICIAN ASSISTANT COMMITTEE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Application of:)
)
)
ISAAC GABRIEL GUTIERREZ)
)
For a Physician Assistant)
License)
)
Applicant.)
_____)

Case No: 1E-2012-223366

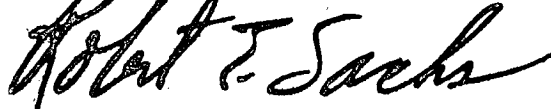
DECISION AND ORDER

The attached Stipulation for a Probationary License is hereby accepted and adopted as the Decision and Order by the Physician Assistant Committee of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on June 14, 2012, and the license will only be issued and probation to commence upon completion of any remaining requirements for licensure.

ORDERED May 31, 2012

PHYSICIAN ASSISTANT COMMITTEE



Robert E. Sachs, P.A., Chairperson

BEFORE THE
PHYSICIAN ASSISTANT COMMITTEE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Application of:)	
)	
Isaac Gabriel Gutierrez)	STIPULATION FOR A
)	PROBATIONARY LICENSE
For a Physician Assistant)	
License)	
_____)	

Isaac Gabriel Gutierrez, applicant for a physician assistant license (hereafter applicant or respondent), and Elberta Portman, Executive Officer, Physician Assistant Committee, hereby stipulate as follows:

- 1) This applicant is a 2011 graduate of the San Joaquin Valley College Physician Assistant Program. He is not licensed to practice as a physician assistant in any state.
- 2) On 14 November 2011, the applicant submitted an application for physician assistant licensure to the Physician Assistant Committee. Question 19a on the application asked: *"Have you ever been convicted or pled nolo contendere to any violation (including misdemeanor or felony) of any local, state, or federal law in any state, territory, country, or U.S. federal jurisdiction?"* The applicant checked the box marked "yes" next to Question 19a, and signed his application on 9 November 2011, attesting that he had read the complete application and declared that all of the information contained in his application was true and correct.
- 3) The applicant was convicted in 2011 of violation of California Vehicle Code Section 23152(a) – Driving under the influence of alcohol.
- 4) Section 480(a) of the Business and Professions Code states that a board may deny a license on the grounds that the applicant has one of the following: (1) Been convicted of a crime...; (2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or (3) Done any act which if done by a licensee of the business or profession in question would be grounds for suspension or revocation of license.... The above findings support a conclusion that grounds for denial exist pursuant to Sections 480(a)(1) and (3).

5) Section 3527(a) of the Business and Professions Code states that the committee may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a physician assistant license after a hearing as required in Section 3528 for unprofessional conduct which includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the Committee or the Board.

6) Under Section 3519.5 of the Business and Professions Code, the Physician Assistant Committee has the discretionary authority to issue a probationary license on terms and conditions. This Stipulation reflects the staff's recommendation to the Committee itself.

7) The applicant acknowledges he has a right to request a Statement of Issues and hearing upon denial of licensure for cause. Applicant waives his right to a hearing and judicial review in favor of this Stipulation for a Probationary License.

8) This Stipulation shall be subject to approval by the Committee. Respondent understands and agrees that the staff of the Physician Assistant Committee may communicate directly with the Committee regarding this Stipulation without notice to or participation by respondent or counsel. By signing the Stipulation, respondent understands and agrees that he may not withdraw his agreement or seek to rescind the Stipulation prior to the time the Committee considers and acts upon it. If the Committee fails to adopt this Stipulation as its Decision and Order, the Probationary License shall be of no force or effect (except for this paragraph) and shall be inadmissible in any legal action between the parties. Further, the Committee shall not be disqualified from further action by having considered this matter.

The staff and applicant agree that a probationary license be issued as follows:

ORDER

1) The application of Isaac Gabriel Gutierrez for an unrestricted license as a physician assistant is hereby denied. However, a probationary license shall be issued to respondent subject to the following terms and conditions.

Respondent is placed on probation for three years, beginning on the date respondent is issued a probationary license.

2) Drugs - Abstain from Use

Respondent shall abstain completely from the personal use or possession of controlled substances as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined by Section 4211 of the Business and Professions Code, or any drugs requiring a prescription.

This condition does not apply to medications lawfully prescribed to respondent for a bona fide illness or condition by another practitioner. However, within 15 calendar days of receiving any lawful prescription medications, respondent shall notify the committee or its designee of the issuing practitioner's name, address, telephone number, medication name, strength, issuing pharmacy name, address, and telephone number.

3) Alcohol - Abstain from Use

Respondent shall abstain completely from the use of products or beverages containing alcohol.

4) Biological Fluid Testing

Respondent shall immediately submit to biological fluid testing upon the request of the committee or its designee. Respondent shall pay the cost of biological fluid testing.

5) Diversion Program

Within 30 days of the effective date of this decision, respondent shall enroll and participate in the committee's Diversion Program until the program determines that further treatment and rehabilitation is no longer necessary. Respondent shall successfully complete the program. The program determines whether or not respondent successfully completes the program.

Respondent shall pay all costs of the program, including, but not limited to the participation fee, biological fluid test collection and sampling fees, support group fees, or subsequent evaluations.

If the program determines that respondent is a danger to the public, upon notification from the program, respondent shall immediately cease practicing as a physician assistant until notified in writing by the committee or its designee that respondent may resume practice. The period of time that respondent is not practicing shall not be counted toward completion of the term of probation.

6) Approval of Supervising Physician

Within 30 days of the effective date of this decision, respondent shall submit to the committee or its designee for its prior approval the name and license number of the supervising physician and a practice plan detailing the nature and frequency of supervision to be provided. Respondent shall not practice until the

supervising physician and practice plan are approved by the committee or its designee.

Respondent shall have the supervising physician submit quarterly reports to the committee or its designee.

If the supervising physician resigns or is no longer available, respondent shall, within 15 days, submit the name and license number of a new supervising physician for approval.

7) Notification of Employer and Supervising Physician

Respondent shall notify his current and any subsequent employer and supervising physician(s) of the discipline and provide a copy of the accusation, decision, and order to each employer and supervising physician(s) during his period of probation, at onset of that employment. Respondent shall ensure that each employer informs the committee or its designee, in writing within 30 days, verifying that the employer and supervising physician(s) have received a copy of Accusation, Decision, and Order.

8) Obey All Laws

Respondent shall obey all federal, state, and local laws, and all rules governing the practice of medicine as a physician assistant in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

9) Quarterly Reports

Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the committee or its designee, stating whether there has been compliance with all the conditions of probation.

10) Other Probation Requirements

Respondent shall comply with the committee's probation unit. Respondent shall, at all times, keep the committee and probation unit informed of respondent's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the committee and probation unit. Under no circumstances shall a post office box serve as an address of record, except as allowed by California Code of Regulations 1399.523.

Respondent shall appear in person for an initial probation interview with committee or its designee within 90 days of the decision. Respondent shall attend the initial interview at a time and place determined by the committee or its designee.

Respondent shall, at all times, maintain a current and renewed physician assistant license.

Respondent shall also immediately inform probation unit, in writing, of any travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) days.

11) Interview with Medical Consultant

Respondent shall appear in person for interviews with the committee's medical or expert physician assistant consultant upon request at various intervals and with reasonable notice.

12) Tolling for Out-of-State Practice or Residence

The period of probation shall not run during the time respondent is residing or practicing outside the jurisdiction of California. If, during probation, respondent moves out of the jurisdiction of California to reside or practice elsewhere, including federal facilities, respondent is required to immediately notify the committee in writing of the date of departure, and the date of return, if any.

Respondent's license shall be automatically canceled if respondent's period of temporary or permanent residence or practice outside California totals two years.

Respondent's license shall not be canceled as long as respondent is residing and practicing as a physician assistant in another state of the United States and is on active probation with the physician assistant licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

13) Failure to Practice as a Physician Assistant – California Resident

In the event respondent resides in California and for any reason respondent stops practicing as a physician assistant in California, respondent shall notify the committee or its designee in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar days in which respondent is not practicing as a physician assistant.

All time spent in a clinical training program that has been approved by the committee or its designee, shall be considered time spent in the practice of medicine. For purposes of this condition, non-practice due to a committee ordered suspension or in compliance with any other condition or probation, shall not be considered a period of non-practice.

Respondent's license shall be automatically canceled if, for a total of two years, respondent resides in California and fails to practice as a physician assistant.

14) Unannounced Clinical Site Visit

The committee or its designee may make unannounced clinical site visits at any time to ensure that respondent is complying with all terms and conditions of probation.

15) Condition Fulfillment

A course, evaluation, or treatment completed after the acts that gave rise to the charges in the accusation but prior to the effective date of the decision may, in the sole discretion of the committee or its designee, be accepted towards the fulfillment of the condition.

16) Completion of Probation

Respondent shall comply with all financial obligations (e.g., cost recovery, probation costs) no later than 60 calendar days prior to the completion of probation.

Upon successful completion of probation, respondent's license will be fully restored.

17) Violation of Probation

If respondent violates probation in any respect, the committee after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the committee shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

18) Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the committee, which may be adjusted on an annual basis. The costs shall be made payable to the Physician Assistant Committee and delivered to the committee no later than January 31 of each calendar year.

19) Modification or Early Termination of Probation


Respondent agrees to the term of probation length and agrees not to petition for or seek an early termination of the length of probation or modification of the terms of probation.

20) Voluntary License Surrender


Following the effective date of this probation, if respondent ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy the terms and conditions of probation, respondent may request the voluntary surrender of respondent's license to the committee. The committee reserves the right to evaluate the respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable.

under the circumstances. Upon formal acceptance of the surrender, respondent shall within 15 days deliver respondent's wallet and wall certificate to the committee or its designee and shall no longer practice as a physician assistant. Respondent will no longer be subject to the terms and conditions of probation and the surrender of respondent's license shall be deemed disciplinary action. If respondent re-applies for a physician assistant license, the application shall be treated as a petition for reinstatement of a revoked license.

If adopted by the Committee as noted in paragraph 8 above, applicant agrees to comply with the terms and conditions of the above Order.


Isaac Gabriel Gutierrez, Applicant

4-22-2012
Date


Elberta Portman, Executive Officer
Physician Assistant Committee

5-4-12
Date